

1 NATIONAL GAMBLING IMPACT

2 STUDY COMMISSION

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4 SECOND REGULAR MEETING

5 + + +

6 Wednesday, August 20, 1997

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9 The Commission met in the Chesapeake Room,
10 Watergate Hotel, 2650 Virginia Avenue, N.W.,
11 Washington, D.C., at 9:00 a.m., Kay C. James,
12 Chairperson, presiding.

13 PRESENT:

14 KAY C. JAMES, Chairperson
15 WILLIAM A. BIBLE, Commissioner
16 JAMES C. DOBSON, Commissioner
17 J. TERRENCE LANNI, Commissioner
18 RICHARD LEONE, Commissioner
19 ROBERT LOESCHER, Commissioner
20 LEO McCARTHY, Commissioner
21 PAUL H. MOORE, Commissioner
22

1 PRESENT (Continued):

2 JOHN W. WILHELM, Commissioner

3 CALVIN SNOWDEN, Agency Liaison

4 ALSO PRESENT:

5 ERIC ALTMAN

6 TIM BIDWILL, Staff

7 MARK BOGDAN, Staff

8 PAUL CONWAY

9 DEBORAH DUCRE, Staff

10 JOHN LITTEL

11 MATT LOWERS

12 STEVE REED

13 ROBERT REGIER, Staff

14 RON RENO

15 CAROL SIMPSON, Staff

16 CRAIG STEVENS, Staff

17 TODD WESTERGARD

18 STEVE WHITE, Staff

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1 P-R-O-C-E-E-D-I-N-G-S

2 (9:03 a.m.)

3 CHAIRPERSON JAMES: Good morning. It's my
4 pleasure to begin the second day of our second regular
5 meeting of the National Gambling Impact Study
6 Commission, and welcome back to those who were here
7 yesterday, and welcome to those who joined us for the
8 first time today.

9 I'm also pleased to note that C Span has
10 joined us for at least part of the day. As a big C
11 Span fan, I appreciate the work that they do in terms
12 of informing the public and allowing the public to see
13 their government at work.

14 This morning we will continue our
15 discussion of the statement of principles and proposed
16 rules by Commissioners, as well as the tentative work
17 plan.

18 We will first turn our attention this
19 morning to the rules, which will govern the process
20 and the procedures for the Commission. Yesterday, at
21 Mr. Loescher's request, we adopted interim rules that
22 basically say that we intend to follow the federal

1 rules contained in our enabling legislation, other
2 applicable federal laws and regulations, and Robert's
3 Rules of Order.

4 This essentially is the process we've been
5 informally following since our inception.

6 At our last meeting, Commissioner Lanni
7 submitted a statement of principles for the
8 Commission's consideration. Since that time,
9 Commissioners Bible, Lanni, and Dobson each submitted
10 a set of rules for our operation. Each of those sets
11 of rules were sent to you for your consideration, for
12 your review, and I hope that you are prepared to
13 discuss them this morning.

14 Before we get into the specifics of these
15 proposals, I want to spend a few minutes talking about
16 general and broad principles. It is the chair's
17 opinion that most of these rules are unnecessary, some
18 redundant, and several illegal.

19 Nevertheless, it is the prerogative of
20 this Commission to adopt such rules as it deems
21 necessary for the conduct of the Commission's
22 business. As we do this, I want to encourage the

1 Commission to keep the comments that were made
2 yesterday in mind.

3 The point of additional rules should be to
4 clarify the process questions, prevent delays, and
5 enhance the efficiency and operation of the
6 Commission. In short, we should follow a common sense
7 rule of reasonableness so that we can get our job done
8 in a timely and thorough fashion.

9 General Henry Robert noted in his now
10 famous Robert's Rules, "The great purpose of all rules
11 and forms is to subserve the will of the assembly
12 rather than to restrain it, to facilitate and not to
13 obstruct the expression of their deliberate sense."

14 To understand and evaluate these rules,
15 staff has met with or spoken to the following federal
16 agencies: the Senate Ethics Committee, the Office of
17 Legal Counsel at the Department of Justice, the Office
18 of Government Ethics, the Committee Management
19 Division of GSA, the General Accounting Office, and
20 the Office of Personnel Management, as well as several
21 attorneys with considerable public sector experience.

22 I personally have spent considerable time

1 learning my role and responsibilities as chair of this
2 Commission. Some of it is clear from the enabling
3 legislation, some from FACA, and other parts of
4 various federal rules and practices.

5 There are some individuals who might be
6 tempted to think that being the chair gives you power
7 and makes your job easier. That's very far from the
8 truth. Instead it imposes enormous requirements that
9 are accompanied by legal liability for failure to
10 insure compliance.

11 Rules adopted by the Commission may not
12 contradict the chair's responsibilities. One of my
13 responsibilities, as discussed yesterday, is to decide
14 rules of order and what is within the Commission's
15 authorization.

16 Mr. Snowden noted yesterday that there is
17 no oversight authority within the executive branch of
18 government for this Commission. We are, however,
19 accountable to the American people through Congress.

20 If there are questions here today or in
21 the future that cannot be resolved and the Commission
22 is at an impasse, I can go to Congress and ask that

1 our enabling legislation be amended. This is an
2 extraordinary route to take, but one which I am
3 willing to do if necessary.

4 Principal among those responsibilities is
5 my duty to insure that the meetings are conducted in
6 full compliance with federal laws, particularly those
7 that relate to protecting the public's right to
8 observe and participate in our deliberations.

9 It is my opinion that many of the proposed
10 rules contradict federal laws and procedures and will
11 prevent the meaningful participation of the American
12 people.

13 Other rules as proposed simply restate the
14 law. In addition to being unnecessary and essentially
15 wasting our time, this also creates an opportunity to
16 dilute or complicate the original intent of the law.

17 Let me give you some examples. Several of
18 the rules are related to information to be withheld
19 from the public. While there are clearly some areas
20 where information may not be disclosed, the proposed
21 rules extend this prohibition to information which
22 should be available for public inspection.

1 Additionally, several rules would create
2 restrictions or permit far too many opportunities to
3 prevent the public and media from participating in the
4 Commission's deliberations.

5 Specifically regarding the media, the
6 rules would create burdens and limitations that
7 infringe upon their legally protected rights and
8 access. Rules related to witness testimony would
9 require some, but not all, individuals to testify
10 under oath. Rules related to the operation of the
11 Commission would limit the ability of the chair and
12 the Executive Director to effectively manage the
13 Commission staff.

14 Rules related to internal communication
15 would require the Executive Director to report any and
16 all communication with Commissioners to every other
17 Commissioner, essentially reducing a professional
18 staff into individuals who will spend all of their
19 time photocopying thousands of pages and shipping them
20 back and forth among Commissioners.

21 Now, if the point of the rules is to keep
22 us in court, tie the hands of the staff, and prevent

1 the public and media from knowing what we are doing,
2 then these are very effective rules.

3 However, I think I know the Commissioners
4 well enough at this point to know that this is not
5 their intent. It is important as we consider
6 potential rules that we consider the spirit and the
7 intent of the Federal Advisory Commission Act and the
8 Sunshine Act. It is intended to protect individual
9 Commissioners and Commissioners by establishing
10 certain process requirements, but the real
11 beneficiaries of these acts are the American people
12 who are guaranteed by these laws that public policy
13 will not be discussed or developed secretly or without
14 their input.

15 That does not mean, however, that
16 confidential information, trade secrets, or personal
17 information will be released or discussed by the
18 Commission publicly. Congress was quite clear on this
19 issue.

20 I've been involved in the public policy
21 process for many years now and have worked on many
22 complicated issues. I've always found it to be

1 beneficial to be as inclusive and open to the public
2 as possible. After all, we are debating issues that
3 will ultimately be decided by the American people.

4 While it sometimes makes the process more
5 difficult, certainly the part about dealing with the
6 press in the long run makes all of our work much
7 easier. I believe that the rules should focus on how
8 we can provide the American people and Congress with
9 what they ask for, and that not in any way or any
10 different ways limit their understanding by limiting
11 the access of the media.

12 I am certain that all of the Commissioners
13 would agree that it is crucial that we protect the
14 right of the public to observe, comment, and otherwise
15 participate in this process. We welcome it. We look
16 forward to all of the information that we will
17 receive.

18 We have a lot of work to get done in a
19 very short period of time. I neither want to belabor
20 these points or ignore the interest of the Commission
21 in considering these rules.

22 The American people, the press, and the

1 Congress are watching carefully to see if we are
2 serious about considering the issues with which we
3 were charged.

4 I was reminded of this while reviewing the
5 comments made during the debate in the U.S. Senate.
6 Senator Reid noted that he would be steadfast in his
7 monitoring of the Commission's environment and agenda,
8 and Senator Coats made clear his willingness to amend
9 the legislation if he thought that we were dodging the
10 issues.

11 We have an obligation to all of those
12 individuals and to the state legislators, city
13 councils, and tribes who are looking to this
14 Commission for information.

15 Having said that, I'd like to offer three
16 choices this morning for our work considering the
17 rules. You will find a 70-page analysis of the rules
18 as submitted by Commissioners Lanni, Bible, and
19 Dobson. I would note again that these are rules that
20 you have had in your possession for some time.
21 Hopefully you have done your due diligence in reading
22 them, in studying them, and have come prepared this